

ICGLR



The Pact

- The ICGLR is an intergovernmental Sub-Regional organization of the states in the African Great Lakes Region was set up on the initiative of the African Union and the United Nations Security Council, as expressed in its resolutions 1291 and 1304/ 2000, when called for an International Conference on peace, security, democracy and development in the Great Lakes region to promote sustainable peace, stability and growth in the region.

Pact

- the Heads of State and Governments of the ICGLR countries signed the Dar Es Salaam, to transform the Region into a hub of sustainable peace and security, political and social stability and shared growth and development.
- This commitment was sealed in December 2006 in Nairobi by the signing of the Pact on Security, Stability and Development in the Great Lakes region, and ten Protocols including the Protocol of Judicial Cooperation.

Programs of Action

- The Pact also included four programs of action for peace and security, democracy and good governance, economic development and regional integration as well as humanitarian and social issues that responsible for implementing the guidelines of the ten protocols besides that there is special programme for Judicial Cooperation and prevention the War Crimes, Genocide, Crimes against humanity and all forms of Discrimination.

The Legal Effects of the Pact

- The Pact aims to; provide a legal framework governing relations among Member States, provide the platform for implementing its contents and create the constructive conditions for Judicial Cooperation, sustainable peace, development and preventing Genocide, War crimes and crime against humanity among the ICGLR Members States.
- The signing of the Pact marked the beginning of the implementation process and the establishment of formal mechanisms for its implementation

Entering into force

- This Pact entered into force on 21 June 2008, since then the ICGLR Member States have legally been required to harmonize, domesticate and implement the provisions of the Protocols and Pact that stipulates in Article 7{{ ***The Member States undertake, in accordance with the Protocol on Judicial Cooperation, to cooperate in matters of extradition, judicial investigation and prosecution***}}.
- Currently, all Member States ratified the Pact except one country that the ratification process is under way.

Sanctions

- In principle the Pact intended to improve the whole situation of security, stability and human rights in the region, therefore when the Pact and Protocols signed, the Heads of State agreed to be committed to its measures and provisions and they ensured to domesticate with national laws. However a Member State that is unable or unwilling to honor its obligations under this Pact shall account for its failure before the Summit which will determine the consequences for such failure Article 23 (6)

Implementation of the Pact

- To ensure the execution of this Pact the Member States agree to create a Regional Follow-up Mechanism consist of
- The Summit of Heads of State and Government, which is considered as the supreme organ of the conference and responsible to direct the implementation of the provisions of the Pact
- The Regional Inter-Ministerial Committee is the executive organ of the Conference responsible to determine strategies for implementing the Pact and shall carry out regular monitoring of its implementation and It shall submit to the Summit a periodic report on the implementation of the Pact

Secretariat and National Coordinator

- The Conference Secretariat, is the technical arm and coordinating body of the Conference it shall ensure the implementation of the decisions of the Summit and the Inter-Ministerial Committee, as well as Ensuring the promotion of the Pact and the execution of the Programmes of Action, Protocols also it Harmonizes the implementation of the Conference activities falling under the responsibility of the relevant regional economic communities.
- The National Coordination, each Member State shall establish this mechanism in order to facilitate the implementation of the Pact at the national level.
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Protocol on Judicial Cooperation

Introduction

The Protocol of Judicial Cooperation was adopted by the Heads of State and Government of ICGLR in Nairobi on 1 December 2006, as the other Protocols is an integral part of the Pact aims to establish a legal collaboration among the ICGLR Members State in matters of extradition, judicial investigation and prosecution

- so these countries are legally undertaken to mutually assist one another through their respective legal institutions with a view to preventing, detecting and punishing the perpetrators of serious crimes. As well as extend their reciprocal

- judicial assistance with respect to take necessary measures to facilitate the procedures and formalities relating to the extradition, investigation and prosecution of offences with a view to strengthening that measures to prevent, investigate crimes through Joint Investigation Commissions.

The Legal Status of the Protocol

- As the Article 24 (1-2) of this Protocol states that {{ Protocol shall be an integral part of the Pact and shall not be subject to separate signature and ratification by the Member States.
- 2. For any Member State which has ratified the Pact this Protocol shall automatically enter into force at the same time as the}}.
- So since 2008 the ICGLR Members are legally binding to implement provisions of the Protocol.
- as well disseminate at the national level to achieve an effective foster regional mutual assistance specifically that links to extraditable offences under the laws of each of the Member State.
- However, the Protocol excluding from extradition process these political refugees who are sentenced or prosecuted only for offences which are political in nature.

Extradition Conditions

The Protocol specifies that in case of an accused person, extradition shall be granted if the laws of the Member State in which the person is found would justify his or her arrest as if the offence had been committed in its territory while in case of a convicted person, extradition shall be granted upon sufficient proof of conviction under the laws of the Member State in whose territory the convicted person is present.

Procedure

For the request for extradition shall be addressed with supporting documents through diplomatic channels to the Minister in charge of Legal Affairs in the requested State, but if these documents justifying the request for extradition have not been produced within thirty days from the request for arrest, the person detained shall be released, also he/she must be freed if has not been transferred to the requesting State within thirty days

Joint Investigation Commission

For the purpose to promote the judicial collaboration the Protocol undertakes the Member States to extend reciprocal legal cooperation by establishing Joint Investigation Commissions to investigate in specific crimes but if this procedure might affect the sovereignty of the requested State; the establishment of a Joint Investigation Commission may be refused.

Exchange of Information

In order to effectively prevent and combat crimes such as transnational organized crimes, terrorism, human trafficking, money laundering and smuggling natural recourse, the police forces of the Member States shall, within the framework of this Protocol, exchange information relating to the prevailing levels of crime and policies and strategies for preventing such crimes

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Crime of Genocide, War Crimes, and Crimes against Humanity

- For combating these crimes the ICGLR Member States recognised that when they adopted in November 2006 the Protocol for the Prevention and the Punishment of the Crime of Genocide War Crimes and Crimes Against Humanity and all forms of Discrimination, so they requested from each ICGLR country to exercise its criminal jurisdiction

- jurisdiction over the perpetrators of such crimes and shall take necessary measures to prevent and punish those crimes as well as to legally assist each other in
- extradition process and they may use the provisions of this Protocol as a legal basis to extradite the perpetrators who committed the crime of genocide, war crimes, and crimes against humanity.

Protocol of Non-Aggression

In addition, in the protocol on Non-Aggression and Mutual Defence Article 4 (8), the Member States agree to protect populations from genocide, war crimes, ethnic cleansing, crimes against humanity, and gross violations of human rights committed by, or within, a State.

ICGLR Achievements for Regional Judicial Cooperation

As the Conference Secretariat shall ensure the promotion of the Pact and the execution of the Programs of Action and Protocols including the Protocol of judicial cooperation that aims to intensify the mutual legal assistance among ICGLR

Members State several efforts have been made to fully implement and domesticate these Protocols

Model Laws

- Four Model Laws for Protocols of; Judicial Cooperation, Non-Aggression and Mutual Defense, Illegal exploitation of Natural Resources and Protocol of the Prevention and Suppression of Sexual Violence against Women and Children, introduced to assist the Members State for domesticating and implementing the Pact and Protocols.
- Most of the Protocols are partially integrated with the national laws of the Members State others are fully domesticated.

- Guidelines developed for combating transnational crime, sexual violence against women and children, Terrorism and Human Trafficking.
- Domestication and implementation guidelines were also elaborated and shared with Members State

- Thus, since July 2012, each ICGLR Member State has designated a Legal Focal Point who works closely with the ICGLR National Coordinator in each Members State, with the view of speeding up the judicial cooperation particularly, the issues of extradition

- and related topics such as arrest and detention as well as they are working for the domestication process of the relevant ICGLR instruments.

Besides, ICGLR provides provisions regarding joint investigation and exchange of information to give guidance on the appropriate procedures. Therefore, most of ICGLR conferences, specifically the Heads of State Summit held in Luanda, Angola January 2014 followed by the Ministers of Justice Conference held in Livingstone Zambia August 2015, concentrated on promoting the mutual legal assistance and collaboration among Members State on the basis of ICGLR Pact

And Protocol of Judicial Cooperation which is recognized as the cornerstone to construct up the networks for regional judicial cooperation to facilitate the administration of justice and Identify opportunities to take specific measures in order strengthen

- judicial cooperation among Great Lakes states, specifically in the matter
- of extraditing accused or convicted persons

also to enhance the Members State
to cooperate with one another in respect of
investigations, prosecutions
and the exchange of information and
documents, as well as to encourage the States
to make bilateral agreements on extradition
and cooperation in respect of investigations
and prosecutions to combat the serious cross-
borders crimes.

The Legal challenges facing the Implementation of the Regional Judicial Cooperation

- There are some difficulties have faced the implementation and legal assistance procedures arising from the national legal systems even though they may use this Protocol as a legal basis for regional cooperation

These obstacles can summarized as

- Limited understanding of what was expected of Member States in regard to develop the judicial cooperation and implement the Protocol
- Internal processes towards the extradition are lengthy and in many cases involved stakeholder consultations requiring considerable time.

- The lack of mutual legal experiences and assistances of holding a legal meetings, workshops and training between ICGLR Secretariat and the official and private legal experts from Member States has affected the promotion of the legal collaboration

- Wide opening borders and activities of the negative forces in some parts of the region weaken the legal collaboration to preventing transnational serious crimes as well as obstruct the arresting those accused persons who are targeted to be extradited.
- The process of granting asylum and abolishing death penalty in Member State affected the legal cooperation and extradition
- Lack of legal Cooperation to break the link to break the link between mineral revenues and rebel groups financing

Nevertheless, all these challenges can be eradicated by establishing a joint legal investigation body within ICGLR Member States, in order to coordinate, promote and annually evaluate the Judicial Cooperation, and implementation of the Pact and Protocol.



Conclusion

- In order to pave the way for the implementation of Protocol of Judicial Cooperation in a harmonized way, legal collaboration in the related fields within the Great Lakes Region is crucial.

- With a spirit of mutual respect and dedicated commitment to the Pact and Protocols, I am looking forward to a constructive workshop and recommendations dealing with the issues and Challenges I very briefly raised. A fruitful legal discussion in this workshop will really support the ICGLR Members State's efforts to eradicate all forms of serious crimes and promote the mutual legal assistance as well as strengthening the regional judicial cooperation.

Thanks

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